

RESOLUTION NO. 26,623

A RESOLUTION OF THE COUNCIL OF THE CITY OF
BURBANK AFFIRMING EXISTING REDEVELOPMENT
AGENCY DEBT AND AMENDING AND ESTABLISHING
CERTAIN OTHER REDEVELOPMENT AGENCY DEBT
TO THE CITY.

1103
1104
1105
1108

THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. AB 1290 required all pre-1994 redevelopment plans to establish a deadline on the incurrence of debt that could not exceed the later of 20 years after the adoption of the plan or January 1, 2004. AB 1290 further required all pre-1994 redevelopment plans to establish a deadline on the plan effectiveness date that is the later of 40 years after plan adoption or January 1, 2009. These time limitations apply to the West Olive Redevelopment Project, Golden State Redevelopment Project, and City Centre Redevelopment Project.

B. Pursuant to SB 211, effective January 1, 2002, these time limits can legally be extended once for an additional 10-year period to incur debt and for the plan effectiveness. In order to obtain the additional 10-year extension on the debt incurrence limit, and on the effectiveness of the plan, the community was required to undertake a plan amendment and to make certain findings including that significant blight remains in the project area that cannot be eliminated without incurring additional debt after the previously established deadline. The amendment of a pre-1994 plan to extend the time limit on incurring debt triggered the obligation to make statutory pass-through payments.

C. The Redevelopment Agency finds that at this time it is not in the Agency's best interest to initiate an amendment to the project areas pursuant to SB 211, but instead desires to reaffirm certain existing debt and to document such debt appropriately. Additionally, new debt as between the Agency and the City of Burbank ("City") is being created as to any left over increment, if any, at the end of each Project, for restricted uses on infrastructure. As there is no deadline to utilize the SB 211 plan amendments, the Agency reserves the right to review this matter periodically.

D. On January 15, 1991, the City Council and Redevelopment Agency established the Youth Endowment Services Funds and authorized the establishment of the Youth Endowment Services Set Aside Program after determining that there are unmet needs for youth-oriented facilities within, and in the immediate neighborhoods of, in the then, three project areas in the Redevelopment Agency of the City of Burbank. Specific programs designed to meet these needs would be of benefit to those project areas and eligible to be funded by the Redevelopment Agency in accordance with Section 33445 of the Health and Safety Code.

E. The Council adopted Resolution No. 23,169 on January 15, 1991, finding that funds for the aforementioned purposes "were not otherwise available to the

community and that the set aside of 5% of new tax increment generated within its three project areas for capital improvements, facilities and equipment, to assist in implementation of the City's Youth Endowment Services Fund is of benefit to the project areas or their immediate neighborhoods."

F. The Redevelopment Agency adopted Resolution R-1608 whereby it agreed to "set aside 5% of new tax increment in each of the Golden State, City Centre, and West Olive Project Areas for the purpose of providing new capital facilities for youth-oriented projects in the City of Burbank to be carried out in conjunction with, or on behalf of the City of Burbank Youth Endowment Services Fund."

G. The parties intended for this ongoing payment to be considered a debt of the Agency as long as each of the three project areas received tax increment, and such debt has been consistently listed in the Agency's Statement of Indebtedness; however, the obligations were never documented in a promissory note. A promissory note has been created to further evidence this Agency debt, and is attached to this resolution as Exhibit A. The parties do not intent to create new debt by this action, but merely to affirm existing debt and to document such debt through a promissory note.

H. The City and the Agency entered into an Agreement for administrative costs on September 29, 1970, which provided for, among other things, certain activities, services and facilities which the City agreed to render for, and make available to, the Agency in furtherance of the activities and functions of the Agency under the Community Redevelopment Law subject to reimbursement to the City by the Agency of certain costs and expenses thereof incurred by the City for and on behalf of the Agency. This Agreement for reimbursement to the City has been consistently identified as Agency debt on the Statement of Indebtedness. By Agency Resolution No. R-40 and City Council Resolution No. 16,223, both adopted on October 3, 1972 by the Agency and the City Council, respectively, the Agreement was amended in certain particulars. The parties further amended the Agreement in 1985, through Agency Resolution No. R-1350 and City Council Resolution No. 21,479.

I. The parties desire to amend the Agreement, to reflect a term which is intended to be applicable as long as the Redevelopment Agency Board is active and a legal entity. No other amendments to this Agreement are being made. The modification to this Agreement is not intended to modify the debt but merely to add a term to the Agreement to clarify the intent of the parties as to the term of the debt. The Third Amendment to the Agreement for administrative costs is attached hereto as Exhibit B (the "Administrative Agreement").

J. The Statement of Indebtedness and the City and Agency's respective Comprehensive Annual Financial Report have consistently reflected certain debt of the Agency specifically as follows:

1. "The City and Agency entered into Resolutions R504, R787, and R1177 to loan an aggregate amount of \$1,778,[000] to the City Centre project for the

purchase of land. Interest is 7% payable quarterly. There is no payment schedule for the principal portion of this advance; repayment will be made as the funds become available in the future." (Hereafter the "\$1.7 million debt")

2. "The City and the Agency entered into a cooperation agreement through which the City agreed to advance funds totally \$49,621,[000], to the City Centre project necessary for land acquisition and related expenses. The advances are non-interest bearing and there is no repayment schedule. Repayment of the advance will be made as funds become available." (Hereafter the "\$49.6 million debt")

3. "From 1977 through 1979, the City and Agency entered into agreements to loan funds aggregating \$225,[000] to the West Olive Project. These agreements bear 7% interest per year, payable quarterly, and have no principal repayment schedule." (Hereafter the \$225 thousand debt").

K. A search for documents that evidence the debt described in recital J above have not been found at the date of the resolution, and therefore the parties reaffirm this debt, and find that the promissory notes cannot be located. Therefore, the Financial Services Director is being authorized by this resolution to execute an "Affidavit of Lost Promissory Note" for each respective debt which shall be prepared by the City Attorney in the event the City Attorney requests evidence of such obligations at any time hereafter.

L. Given the existing state budget, the City anticipates that it will not have adequate funding sources for future infrastructure needs in the project areas identified above. Pursuant to Section 33445 of the Health and Safety Code, the City finds that public infrastructure projects which are listed in each respective project area, and incorporated herein by this reference, are of benefit to that respective project area or the immediate neighborhood in which the project area is located, and that improved infrastructure will assist in the elimination of one or more blighting conditions within each project area or provide housing for low-or moderate income persons, and is consistent with the implementation plan adopted pursuant to Section 33490. The parties intend that reimbursement for any capital improvements referenced herein shall be repaid to the City pursuant to Section 33445, but not until all other debt in existence on December 31, 2003 has been fully repaid and in accordance with the promissory note. The promissory note is set forth as Exhibit "C", and attached and incorporated herein by this reference.

THE COUNCIL OF THE CITY OF BURBANK RESOLVES:

1. The City affirms all of the debt as set forth in recitals A- K.
2. The City Manager, or her designee, is authorized to sign the Youth Endowment Services Promissory Note in a form as set forth in Exhibit "A", the Infrastructure Note in a form as set forth as Exhibit "C" and the Third Amendment to the

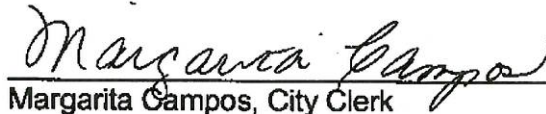
Administration Agreement set forth as Exhibit "B". The City Clerk shall attest such signature on behalf of the City.

3. The Financial Service Director, or his designee, is authorized to execute an Affidavit of Lost Promissory Note, if ever deemed necessary by the City Attorney to reflect the lost notes for "\$1.7 million debt", the "\$49.6 million debt", or the "\$225 thousand debt."

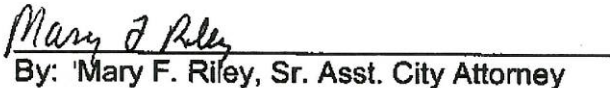
PASSED and ADOPTED this 16th day of December, 2003.


Stacey Murphy
Mayor of the City of Burbank

Attest:


Margarita Campos, City Clerk

Approved as to Form and Legal Content
Dennis A. Barlow, City Attorney


By: Mary F. Riley, Sr. Asst. City Attorney

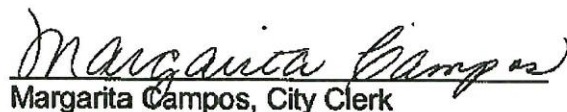
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Margarita Campos, City Clerk of the City of Burbank, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 16th day of December 2003, by the following vote:

AYES: Council Members Campbell, Golonski, Ramos, Vander Borcht and Murphy

NOES: Council Members None.

ABSENT: Council Members None.


Margarita Campos, City Clerk

**PROMISSORY NOTE FROM THE REDEVELOPMENT AGENCY
OF THE CITY OF BURBANK TO THE CITY OF BURBANK**

5% of Tax Increment in Golden State, West Olive
and City Centre Redevelopment Project Areas

December __, 2003
Burbank, California

FOR VALUE RECEIVED, the undersigned Redevelopment Agency of the City of Burbank (the "Agency"), having its office at 301 East Olive Avenue, Burbank, CA 91502 hereby promises to pay to the order of the City of Burbank (the "City") having its office at 275 East Olive Avenue, Burbank, California 91502, in currency of the United States which shall be legal tender, the principal sum equal to 5% of the new tax increment received in the Golden State, West Olive, and City Centre Redevelopment Project Areas (the "principal sum") from the aforementioned date (the "Funding Date") until each project area no longer receives tax increment funds. The tax increment is part of the Youth Endowment Services Set Aside Program.

1. The principal sum shall be due and payable as follows: annually, or whenever in receipt of new tax increment, the Agency shall transfer 5% of the new tax increment, subject to existing obligations and debt to the City, who in turn agrees to transfer it to the YES, Inc., a non-profit corporation.

2. This Note evidences the obligation of the Agency for funds owed to City on behalf of YES, Inc. (the "Agency Loan") in furtherance of the Youth Endowment Services Set Aside Program, created by City Resolution No. 23,169 and Agency Resolution R-1608.

3. If this Note or any payment of principal is not paid when due, whether at maturity or at acceleration, the Agency promises to pay all costs of collection, including without limitation, actual attorney's fees; such costs and expenses shall include, without limitation, all costs, expenses, and attorney's fees actually incurred by the Agency in connection with any insolvency, bankruptcy, arrangement or other similar proceedings involving the Agency, which in any way affects the Agency of its rights and remedies under this Note. As used herein, "actual attorneys' fees" or "attorneys fees actually incurred" means the full and actual cost of any legal services actually performed in connection with the matter for which such fees are sought calculated on the basis of the usual fees charged by the attorneys performing such services, and shall not be limited to "reasonable attorney's fees" as that term may be defined in statutory or decisional authority.

4. This Note and the terms and provisions hereof may be assigned by the City only to the Youth Endowment Services, Inc., a non-profit corporation.

5. This Note shall be governed by, and construed and enforced in accordance with the laws of the State of California. Any changes, amendment,

modification, abridgement, cancellation, or discharge of this Note or any term or provision hereof, shall be invalid without the written consent of Agency.

6. This Note shall be paid by the Agency annually, through the Finance Director.

7. Presentment for payment, demand, protest, and notices of dishonor, of protest and nonpayment of this Note and all notices of every kind are waived by all parties to this Note. All parties waive the benefits of all waivable exemptions; and all defenses and pleas on the grounds of any extension or extensions of the time of payment or any due date under this Note, in whole or in part, whether before or after maturity and without notice.

8. If any term or provision of this Note shall to any extent be found by court or competent jurisdiction to be invalid or unenforceable, the remainder of this Note shall be valid and enforced to the fullest extent permitted by law.

"AGENCY"

REDEVELOPMENT AGENCY OF THE
CITY OF BURBANK

By: _____
Name: _____
Its: _____

EXHIBIT A

**THIRD AMENDMENT TO AGREEMENT
BETWEEN THE CITY OF BURBANK AND
THE REDEVELOPMENT AGENCY OF THE
CITY OF BURBANK ESTABLISHING
CERTAIN CITY-AGENCY RELATIONSHIPS**

This Third Amendment (the "Third Amendment") to that certain agreement entitled "Agreement Between the City of Burbank and the Redevelopment Agency of the City of Burbank Establishing Certain City-Agency Relationships" (the "Agreement") is dated as of the ____ day of _____, 2003 (the "Effective Date"), and is being executed by and between the City of Burbank (the "City") and the Redevelopment Agency of the City of Burbank (the "Agency"), with reference to the following:

A. The City and the Agency entered into the Agreement on September 29, 1970, which provided for, among other things, certain activities, services and facilities which the City agreed to render for, and make available to, the Agency in furtherance of the activities and functions of the Agency under the Community Redevelopment Law subject to reimbursement to the City by the Agency of certain costs and expenses thereof incurred by the City for and on behalf of the Agency.

B. By Agency Resolution No. R-40 and City Council Resolution No. 16,223, both adopted on October 3, 1972 by the Agency and the City Council, respectively, the Agreement was amended in certain particulars.

C. The parties amended the Agreement in 1985, through Agency Resolution No. R-1350 and City Council Resolution No. 21,479.

D. The parties desire to add a term to the Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. This Agreement is intended to be effective so long as the Redevelopment Agency of the City of Burbank is active and a legal entity.

2. In the event there is any conflict or inconsistency between the terms and provisions of this Third Amendment and the terms and provisions of the Agreement, the terms and provisions of this third Amendment shall control and govern the rights, duties and obligations of the parties. Except as modified and amended herein, the Agreement, as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Third Amendment as of the date first above written.

THE CITY OF BURBANK

By: _____
Mary J. Alvord, City Manager

Attest:

Margarita Campos, City Clerk

THE REDEVELOPMENT AGENCY OF
THE CITY OF BURBANK

By: _____
Mary J. Alvord, Executive Director

Attest:

Margarita Campos, Secretary

Approved as to Form and Legal Content
Dennis A. Barlow, City Attorney/Agency Counsel

By: _____
Mary F. Riley, Senior Asst. City Attorney

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**PROMISSORY NOTE FROM THE REDEVELOPMENT AGENCY
OF THE CITY OF BURBANK TO THE CITY OF BURBANK**

December __, 2003
Burbank, California

FOR VALUE RECEIVED, the undersigned Redevelopment Agency of the City of Burbank (the "Agency"), having its office at 301 East Olive Avenue, Burbank, CA 91502, hereby promises to pay to the order of the City of Burbank (the "City") having its office at 275 East Olive Avenue, Burbank, California 91502, in currency of the United States which shall be legal tender, the principal sum in an amount equal to the City's expenditures for public improvements identified in the Golden State, West Olive, and City Centre Redevelopment Project Area plans (the "principal sum") from the aforementioned date (the "Funding Date") until each project area no longer receives tax increment funds. This Note is subject to all preexisting debt, and existing obligations.

1. Interest. The Note Amount shall accrue interest at three percent (3%) simple interest.

2.. Repayment of Note Amount. The Note Amount shall be paid by the Agency whenever it is in receipt of new increment received by the Agency which is not otherwise encumbered by debt or otherwise determined to be necessary for the Agency's anticipated expenditures for that year. Such determination shall be made by the Agency's Assistant Executive Director. When the Agency determines that a payment can be made, the Agency shall transfer tax increment, if any exists after payment of existing obligations and debt, to the City, in an amount determined by the Financial Services Director adequate to reimburse the City for public improvements as identified in City Council Resolution No. _____, which is incorporated herein by this reference, up to the actual amount incurred by the City.

3. This Note evidences the obligation of the Agency for funds owed to City for public improvements in accordance with Section 33445 of the Health and Safety Code.

4. If this Note or any payment of principal is not paid when due, whether at maturity or at acceleration, the Agency promises to pay all costs of collection, including without limitation, actual attorney's fees; such costs and expenses shall include, without limitation, all costs, expenses, and attorney's fees actually incurred by the Agency in connection with any insolvency, bankruptcy, arrangement or other similar proceedings involving the Agency, which in any way affects the Agency of its rights and remedies under this Note. As used herein, "actual attorneys' fees" or "attorneys fees actually incurred" means the full and actual cost of any legal services actually performed in connection with the matter for which such fees are sought calculated on the basis of the usual fees charged by the attorneys performing such services, and shall not be limited

EXHIBIT C

to "reasonable attorney's fees" as that term may be defined in statutory or decisional authority.

5. This Note shall be governed by, and construed and enforced in accordance with the laws of the State of California. Any changes, amendment, modification, abridgement, cancellation, or discharge of this Note or any term or provision hereof, shall be invalid without the written consent of Agency.

6. This Note shall be paid by the Agency, through the Finance Director. If an actual amount owed is required, the Finance Director is authorized to identify a reasonable reimbursement amount and insert same on this Note.

7. Presentment for payment, demand, protest, and notices of dishonor, of protest and nonpayment of this Note and all notices of every kind are waived by all parties to this Note. All parties waive the benefits of all waivable exemptions; and all defenses and pleas on the grounds of any extension or extensions of the time of payment or any due date under this Note, in whole or in part, whether before or after maturity and without notice.

8. If any term or provision of this Note shall to any extent be found by court or competent jurisdiction to be invalid or unenforceable, the remainder of this Note shall be valid and enforced to the fullest extent permitted by law.

"AGENCY"

REDEVELOPMENT AGENCY OF THE
CITY OF BURBANK

By: _____
Name: _____
Its: _____

EXHIBIT C